IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.864 OF 2005

M/s.Agarwal Equipments Leasing
Co. Pvt. Ltd. ..Petitioner.

Vs.

Anna B. Khadekar & anr. ..Respondents.

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Mr.T.R.Yadav for the Petitioner.

Mrs.I.A.Sayeed for Respondent No.1.

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CORAM : DR.D.Y.CHANDRACHUD, J.

4th April, 2005.

P.C. :

The claim under section 33-C(2) of the Industrial Disputes Act, 1947 has been allowed to the extent of Rs.26,151/- comprising of overtime allowance to the extent of Rs.25,192/- and leave wages of Rs.3,159/- From the evidence it has emerged that the workman was required to do over time for a period of one year every day during the period 5th April, 1997 to 31st March, 1998. Similarly, there was a claim for overtime for

1998-99 and from 1st April, 1999 to 20th February, 2000. Reliance has been placed on the cross examination of the workman. However, all that the workman admitted in the course of his cross examination was that he was not required to do actual driving work for all the 12 hours though he was on duty. The actual extent of work would depend upon the business exigencies of the employer. However, the workman was required to present himself for 12 hours of day. He was entitled to overtime for a period in excess of the spread over of 11 hours under Section 11 of the Bombay Shops and Establishment Act. There is no merit in the Petition which is accordingly rejected.